

## **KENTUCKY DEPARTMENT OF EDUCATION**

### **STAFF NOTE**

#### **Review Item:**

703 KAR 5:070, Procedures for the inclusion of special populations in the state-required assessment and accountability program

#### **Applicable Statute or Regulation:**

KRS 158.6453, 703 KAR 5:070

#### **History/Background:**

***Existing Policy.*** From the early 1990s, Kentucky's assessment and accountability program has been an inclusive system requiring that all students, even those with the most severe disabilities, participate and be included in accountability calculations. No Child Left Behind also establishes the expectation of inclusion for all students and incorporates subgroup targets of performance in the determinations of Adequate Yearly Progress. The reporting rules for both state and federal accountability make the assessment results for student subgroups critical to successful performance in both accountability systems.

The use of assessment results in state and federal accountability calculations, school improvement and student information heightens the importance of statewide consistent assessment administration practices. 703 KAR 5:070 incorporates by reference the document, *Inclusion of Special Populations in the State-Required Assessment and Accountability Programs*, that establishes procedures for the inclusion of special student populations in the state-required assessment and accountability programs. Annually, educators involved with providing testing accommodations to students in special populations must receive training on 703 KAR 5:070 and districts must maintain training documentation. Manuals that accompany each assessment provide guidance on the provision of accommodations.

The last revision to 703 KAR 5:070 was in February 2004. A new Commonwealth Accountability Testing System requires that procedures for the inclusion of special populations in the state-required assessment and accountability program be appropriately updated.

#### **Policy Issue (s):**

Proposed changes to the Inclusions regulation reflect the current assessment and accountability system and new technologies, incorporate federal requirements for students with limited English proficiency, and remove repetitive language or language found in other current regulations.

The basic structure of the proposed revised document maintains the same sections. Throughout the regulation, references to modifications have been removed. The use of the word “modification” as it relates to assessments has changed in the national conversation since the original drafting of this regulation. Accommodations are intended to provide support for students during instruction to access and learn content as well as to demonstrate content achievement. Modifications, however, refer to practices that change, lower, or reduce learning expectations. Modifications shall not be used for state-required assessment although they may be appropriate for instruction.

To assist with review of the revised document, new proposed language is underlined and language proposed to be removed is bracketed with a strikethrough.

A brief description of proposed changes for each section is found below.

#### Introduction, Background and Purpose

- Added description of accommodations and modifications. (page 4)
- Added reference to Non-A1 schools. (page 4)

#### Student Inclusion

- Removed outdated reference to another section of the regulation. (page 4)

#### Summary of the Standards for Inclusion of Special Populations

- Updated name of Alternate Assessment program. (Page 5)
- Clarified that the student population with severe cognitive disabilities is referred to in federal language as one percent of the total population. (page 5)

#### Section 1 – Inclusion of Students with Disabilities

- Combined references to Individual Education Plan (IEP) and 504 Plan. (page 6)
- Removed repetitive language and language copied from Section 504 of the Rehabilitation Act of 1973. (pages 6-7)
- Updated name of Alternate Assessment program. (page 7)
- Removed outdated age requirements and non-graded information. Alternate Assessment students participate annually as required by No Child Left Behind and are placed in a grade. (page 8)
- Added current requirement for Alternate Assessment students in Transition to Adult Life in 703 KAR 5:020, the Formula for Determining School Accountability. (page 9)

#### Section 2 – Inclusion of Students in Non-A1 Schools and State Agency Children

- Maintained the same expectations for students in Non-A1 schools and state agency children as is held for all students regarding participation in assessments and inclusion in accountability. (pages 9-10)
- Removed language already stated in 703 KAR 5:040 regarding tracking of accountability data to A1 schools. (pages 9-10)

### Section 3 – Inclusion of Limited English Proficiency (LEP) Students

- Reorganized content under original two parts (State-Required Assessment and Accountability and State-Required English Language Proficiency Assessment). (pages 10-16)
- Reflected current system use of abbreviations—LEP, PSP and AYP. (pages 10-16)
- Added federal requirements for science assessment and the one time only use per student of the first year in U.S. school exemption. (page 11)
- Added the LEP accommodation of simplify language and oral native language support with extended time and removed reference to paraphrasing. (page 14)
- Clarified accommodations for dictionaries, scribes and use of technology. (page 15)
- Clarified that accommodations on the state-required language proficiency assessment are only permitted for students with an IEP or 504 Plan. (page 16)

### Section 4 – Inclusion of Students Receiving Instruction in Home/Hospital Settings

- No revisions are proposed for this section. (pages 16-17)

### Section 5 – Inclusion of Students with Temporary Medical Conditions that Necessitate Accommodations

- Added reference to the Division of Assessment Support that currently processes this information. (page 18)

### Section 6 – Conditions for Implementing Accommodations

- Added statements to emphasize accommodations are temporary and assistive technology shall be considered to foster independence. (pages 18-19)
- Reflected current technology terms and processes. (pages 19-21)
- Removed repetitive general language on accommodations from descriptions of readers and scribes. (page 21-24)
- Clarified the scribe's use of a keyboard. (pages 25-26)
- Removed paraphrasing references for students with Limited English proficiency where simplifying language is more appropriate. (page 26)
- Added reference regarding use of technology and online testing to focus attention. (page 27)
- Removed prompting and cueing references for students with Limited English proficiency. (page 28)
- Removed repetitive language on general accommodations for interpreters for students with a hearing impairment. (page 31)
- Removed language on oral interpreters for students with limited English proficiency because of the addition of oral native language support in Section 3. (page 32)

### **Groups Consulted and Brief Summary of Responses:**

Staff established a work team including school and district personnel and KDE staff from other offices. Administration Code issues have been discussed with District Assessment Coordinators, the School Curriculum, Assessment and Accountability Council and local Superintendents Advisory Council. The Local Superintendents Advisory Council will provide input on this regulation at their June meeting. Staff will continue to seek input that can be shared in June.

**Impact on Getting to Proficiency:**

Holding schools accountable for progress is a key element in meeting proficiency by 2014. As we move closer to 2014 it becomes increasingly important for schools to thoroughly understand the requirements of the assessment and accountability system including administration rules for the inclusion of students in special populations so that schools may focus their efforts on ensuring every child is proficient and prepared for success.

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**Commissioner of Education**

**Date:**

June 2008